

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6487

BILL NUMBER: SB 138

NOTE PREPARED: Dec 15, 2009

BILL AMENDED:

SUBJECT: Sales Tax Exemption.

FIRST AUTHOR: Sen. Landske

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill provides a Sales Tax exemption for food sold through a vending machine.

Effective Date: July 1, 2010.

Explanation of State Expenditures: This bill will increase the administrative costs of the Department of State Revenue (DOR). The DOR will have to amend the Sales Tax forms, as well as update computer software. However, it is estimated that the provisions of this bill can be implemented within the existing level of resources available to the DOR.

Explanation of State Revenues: *Summary* -This bill could potentially reduce Sales Tax revenue by approximately \$7.6 M to \$13.8 M in FY 2011 and \$8.4 M to \$15.0 M in FY 2012. The estimates for FY 2011 are adjusted to reflect 11 months of remittances that will be affected due to the July 1, 2010, effective date. Remittances are required to be filed before the 20th day of the month after the month in which the Sales Tax was collected.

Many food items are currently exempt from Sales Tax under IC 6-2.5-5-20, but food sold through vending machines is specifically excluded from the exemption and therefore taxable. This bill strikes that exclusion, allowing food sold through vending machines to be exempt from Sales Tax. This exemption would only be applied to "food" as defined in statute and further explained and interpreted by the DOR. The definitions which apply and a list of examples of vending machine items that would continue to be taxed and exempted under this bill are included in the *Background* section below.

The estimates are based on survey reports from the Automatic Merchandiser's *Industry Reports* and Vending

Times' *Census of the Industry*. Please note that these two reports are based on two different surveys and as such have different response rates. The table below shows the impact on funds receiving Sales Tax revenue.

| Revenue Impact (in millions) | | | | |
|---------------------------------|------------------------|------------------|-------------------|-------------------|
| Fund | Automatic Merchandiser | | Vending Times | |
| | FY 2011 | FY 2012 | FY 2011 | FY 2012 |
| General Fund | (\$7.521) | (\$8.330) | (\$13.656) | (\$14.903) |
| Public Mass Transportation Fund | (\$0.051) | (\$0.056) | (\$0.092) | (\$0.101) |
| Industrial Rail Service Fund | (\$0.002) | (\$0.002) | (\$0.004) | (\$0.004) |
| Commuter Rail Service Fund | (\$0.009) | (\$0.010) | (\$0.017) | (\$0.018) |
| Total | (\$7.583) | (\$8.399) | (\$13.769) | (\$15.026) |

Sales Tax revenue is deposited in the state General Fund (99.178%), the Public Mass Transportation Fund (0.67%), the Commuter Rail Service Fund (0.123%), and the Industrial Rail Service Fund (0.029%).

Background Information - IC 6-2.5-1-20 defines "food and food ingredients" as "substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and that are consumed for their taste or nutritional value. The term does not include alcoholic beverages, candy, dietary supplements, tobacco products, or soft drinks."

The DOR (45 IAC 2.2-5-39) provides examples of items which are food and items which are not considered food for Sales Tax purposes. Under current law, ALL of these items, IF bought from a vending machine, would be taxable. Under the bill, the items labeled FOOD, would be exempt.

FOOD (currently taxable, but exempted by the bill): cereal & cereal products; cocoa; coffee & coffee substitutes; cookies; crackers; dehydrated fruit & vegetables; diet foods; fruit & fruit products, including fruit juices; gelatin; health foods; ice cream, toppings, and novelties; marshmallows; meat & meat products; milk & milk products; nuts, including salted, but not chocolate or candy-coated; popcorn; potato chips; tea; vegetables & vegetable products; vegetable juices.

NON-FOOD (currently taxable, still taxable under the bill): alcoholic beverages; candy & confectionery; candied apples, caramel-coated popcorn, chewing gum, chocolate-covered nuts, ice, soft drinks, sodas & similar beverages, tobacco products, water, including mineral, bottled carbonated & soda.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: DOR.

Local Agencies Affected:

Information Sources: Automatic Merchandiser *Industry Reports*; Vending Times *Census of the Industry 2008*.

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